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FILED
DISTRICT COURT OF GUAM

JUN 26 2007

MARY L.M. MORAN
CLERK OF COURT

**IN THE UNITED STATES DISTRICT COURT
FOR THE TERRITORY OF GUAM**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

XIAN LONG YAO,

Defendant.

CRIMINAL CASE NO. 07-00043

**UNITED STATES MOTION
IN LIMINE**

Pursuant to United States v. Dorrell, 758 F.2d 427 (9th Cir. 1985), the United States moves this Honorable Court for an order prohibiting the defendant from testifying that he will be prosecuted for having twins if he is sent back to China.

Defendant was deported from the United States in August, 2002. He entered Saipan August 24, 2004, and illegally entered the United States on a smuggling boat from Tinian on August 25, 2005. The boat landed 14 people at Ritidian Point.

The charge against him concerns this illegal entry. For the defense of necessity to apply, defendant would have to testify that he was forced to come to the United States in 2005, because


1 the *Saipan* government was going to prosecute him for having twins in China. This is patently
2 absurd.

3 Accordingly, defendant should be barred from presenting the testimony proffered by his
4 attorney in the memorandum of law filed June 25, 2007.

5 Respectfully submitted this 26th day of June, 2007.

6 LEONARDO M. RAPADAS
7 United States Attorney
8 Districts of Guam and NMI

9 By:

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11 KARON V. JOHNSON
12 Assistant U.S. Attorney
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